

# **A Blueprint for CEQA Improvement**

**Submitted to the  
State of California  
CEQA Improvement Advisory Group**

**By  
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**February 16, 2005**

At the outset, it is important to recognize that CEQA should not be a scapegoat for the severe challenges California faces in providing affordable housing and in maintaining economic competitiveness while protecting irreplaceable natural resources. Over its 35-year life, CEQA has seen dramatic booms and busts in California's economy generally, and specifically in the rate of development and housing.

By providing a basic disclosure and mitigation process, CEQA has made enormous contributions to environmental quality, but that does not mean that it is either unflawed or sufficient in and of itself. Indeed, we face overwhelming failures of land use planning that CEQA in its current form simply cannot address. These include:

- Depletion and fragmentation of natural and agricultural resources;
- Grossly underutilized infill and reuse capacity;
- Improperly sited and inefficiently utilized greenfields;
- Massive wasting of rural lands – also precluding efficient, housing-rich greenfield development – in favor of housing-poor, unaffordable estate lot subdivision; and
- Disorganized, dispersed development resulting in billions of wasted hours in traffic and billions of wasted dollars for far-flung infrastructure and services.

This pattern of waste is also a root cause of the shortage of affordable housing. Practical limits exist on the distance from job rich areas housing can or should be built. More efficient use of land near job rich areas is the best way to address the problem.

As a procedural law that does not guarantee either good planning or resource protection, these failures cannot be laid at CEQA's doorstep. But that does not mean that CEQA cannot or should not be improved. Specifically:

- The big decisions determining whether resource preservation efforts will be successful, and whether land use will be efficient, occur at the *macro* level.
- At the individual, small project level, meaningful alternatives are already foregone conclusions. Thus, CEQA should strengthen analysis and mitigation at the programmatic and larger project level in return for streamlined analysis of subsequent and consistent smaller projects that implement the larger project.
- Moreover, to be successful at the programmatic level, CEQA must be coupled with 1) general plan reform and 2) proactive resource protection.

“Big picture” projects – transportation corridors, general plan updates, large specific plans for urbanized areas – are well suited for the fundamentals of CEQA – impact disclosure and mitigation, and analysis of a range of alternatives. In these settings, public participation makes the CEQA process a forum for stakeholder input, and community visioning. High visibility assures accountability.

On the other hand, piecemeal site-specific analysis – the prototype being a site-specific general plan amendment or rezoning – is doomed to failure, whether for natural habitats or traffic. The reasons are legion:

- Biological impacts, and their significance to the ecosystem, are not effectively analyzed or mitigated on a piecemeal, project-by-project basis;
- Cumulative impacts are not addressed through such EIRs, let alone negative declarations;
- Alternatives analysis – especially alternative sites – becomes an artifice;
- “Gaming” of project objectives to produce a predetermined outcome is widespread;
- Overriding considerations are used routinely and cynically; and
- The multitude of projects precludes effective monitoring by the public.

The most egregious failure of the current system is the ability of negative declarations to “paper over” the profound cumulative impacts of minor subdivisions in exurban locations. “Rural residential” sprawl, in technical compliance with CEQA, is literally wasting California.

On the other hand, the ability of smaller projects to successfully plug into master or programmatic documents, and to reconcile conflicting interests through such a process, is well established. Natural Community Conservation Planning (NCCP) in Southern California, which covers broad areas, and which has literally produced order out of chaos, shows the potential of this approach.

But in the absence of a state-level framework that allows a working consensus for “big picture” planning to emerge at the local level, CEQA remains an indispensable “lifeboat” for environmentalists and neighborhoods. The leverage provided through CEQA-based litigation is often the only recourse to produce a more equitable, negotiated solution. In the absence of overall planning reform, the project-by-project “CEQA suit” simply cannot be relinquished.

The future and proper application of the CEQA process lies in large scale planning that has true public participation, that is periodically revisited, and that, for practical purposes, subsumes and streamlines the many smaller projects that follow. However, as noted above, this objective must be coupled with proactive resource protection and general plan reform.

Proactive resource protection, which doubles as a repository for project-specific mitigation, can be achieved through NCCPs. There is no reason why NCCPs, and equivalent programs for agriculture, should not be required as an implementation mechanism for the conservation element of general plans. New funding sources, from both new and existing development, will be necessary. As shown by the Riverside County Integrated Project, a nexus with regional transportation allows all new development – even within urbanized areas – to contribute and broaden the base.

General plan reform is essential, as well. There are three components:

1. *Piecemeal amendment of general plans must be prohibited.* Rather, periodic cycles for updates must be adopted, wherein competing visions can be meaningfully reconciled, and certainty established for all legitimate interests. The Riverside County “Certainty System,” endorsed by environmentalists and the Building Industry Association alike, is a template. Meeting housing needs for the next cycle becomes a requirement of each update.
2. *Land must be used efficiently.* The draining of local government treasuries by infrastructure and service costs, our unmet housing needs, resource depletion, and fundamental land ethics demand that the State exercise its prerogative to advance this objective. Tests or performance standards must be met for utilizing infill and reuse capacity, for ratcheting up densities in greenfield development, and for curtailing exurban, “rural residential” sprawl – the greatest threat to sustainable land use and the provision of affordable housing over the long term.
3. *Cities must get into the development business and counties must transition out of it, returning to their historic mission of public service provision.* While properly sited “new towns” can be planned with incorporation in mind, a division of responsibilities between cities and counties is a precondition for orderly development. Already urbanized county areas should either be required to incorporate as a condition for further expansion, or unincorporated areas should meet the same standards applicable to municipal expansion through application of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.